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15
16 **UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

17 APPLICATIONS IN INTERNET TIME, LLC,
18

19 Plaintiff,

20 v.

21 SALESFORCE, INC.,
22

23 Defendant.

No. 3:13-CV-00628-RCJ-CLB

**SALESFORCE'S MOTION FOR
LEAVE TO FILE UNDER SEAL
PORTIONS OF SALESFORCE'S
MOTION FOR ATTORNEY'S FEES**

24 Pursuant to LR IA 10-5 of the Local Rules of Practice for the United States District Court
25 of Nevada, Defendant Salesforce, Inc. ("Salesforce"), by and through its counsel of record, hereby
26 requests leave to file under seal portions of Salesforce's Motion for Attorney's Fees.
27
28

1 This Motion is based upon the following Memorandum of Points and Authorities, the
2 attached Declaration of Sam Stake in Support, the pleadings and papers filed in this action, and all
3 other matters of which the Court may take judicial notice.

4 In accordance with paragraph 13 of the Protective Order (Dkt. 46 at 15), Salesforce will
5 file within seven days a redacted version of the Motion for Attorney's Fees.

6
7 DATED: September 27, 2023

Respectfully submitted,

8 QUINN EMANUEL URQUHART &
9 SULLIVAN, LLP

10 By /s/ Ray Zado

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Attorneys for Defendant Salesforce, Inc.

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

APPLICATIONS IN INTERNET TIME, LLC,

Plaintiff,

v.

SALESFORCE, INC.,

Defendant.

No. 3:13-CV-00628-RCJ-CLB

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
SALESFORCE'S MOTION FOR
LEAVE TO FILE UNDER SEAL
PORTIONS OF SALESFORCE'S
MOTION FOR ATTORNEY'S FEES**

MEMORANDUM OF POINTS AND AUTHORITIES

Defendant Salesforce, Inc. ("Salesforce") contemporaneously filed its Motion for Attorney's Fees, Declaration of Sam Stake in Support, Declaration of Leigh Goddard in Support, and Accompanying Exhibits 1-14 and A-B and respectfully requests that portions of the Motion

1 for Attorney's Fees, The Declaration of Sam Stake in Support, Declaration of Leigh Goddard in
 2 Support, and Exhibits B, 3, 6-14 be filed under seal.

3 "[T]he courts of this country recognize a general right to inspect and copy public records
 4 and documents, including judicial records and documents." *Nixon v. Warner Commc'ns, Inc.*, 435
 5 U.S. 589, 597 (1978) (footnote omitted). While there is a strong presumption in favor of public
 6 access to filed documents, the right of access, however, "is not absolute and can be overridden
 7 given sufficiently compelling reasons for doing so." *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331
 8 F.3d 1122, 1135 (9th Cir. 2003). The Court has "broad latitude" under Rule 26(c) "to prevent
 9 disclosure of materials for many types of information, including, *but not limited to*, trade secrets or
 10 other confidential research, development, or commercial information." *Phillips v. Gen. Motors*
 11 *Corp.*, 307 F.3d 1206, 1211 (9th Cir. 2002) (citations omitted). The Court has inherent power to
 12 deny public access "where the court determines that the documents may be used for improper
 13 purposes." *Mine O'Mine, Inc. v. Calmese*, No. 2:10-CV-00043-KJD, 2012 WL 1279827, at *4 (D.
 14 Nev. Apr. 16, 2012), *aff'd*, 489 F. App'x 175 (9th Cir. 2012). In making the determination, courts
 15 should consider relevant factors, including "the public interest in understanding the judicial
 16 process and whether disclosure of the material could result in improper use of the material. . ."
 17 *Foltz*, 331 F.3d at 1135.

18 Although there is a strong presumption in favor of allowing public access to court records,
 19 that presumption is overcome "when court records may be used to . . . release trade secrets" or
 20 other sensitive information. *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1179 (9th Cir.
 21 2006). For purposes of a motion to seal, a trade secret is concerned "any formula, pattern, device
 22 or compilation, of information which is used in one's business, and which gives him an
 23 opportunity to obtain an advantage over competitors who do not know or use it. *Apple Inc. v.*
 24 *Samsung Elecs. Co.*, 727 F.3d 1214, 1221–22 (Fed. Cir. 2013) (applying Ninth Circuit law
 25 regarding competitive harm to business and the definition of "trade secret") ("*Apple*"). The Court
 26 has found that "exhibits containing detailed billing records which contain negotiated billing rates. .
 27 . [are] competitively sensitive and not publicly known, it is appropriate to file them under seal."
 28

1 *Mine O'Mine* 2012 WL 1279827, at *4 citing *China Int'l Travel Services (USA), Inc. v. China &*
2 *Asia Travel Service, Inc.*, 2008 WL 5480840, 10 (N.D.Cal., 2008).

3 Here, portions of Salesforce's Motion for Attorney's Fees, the Declaration of Sam Stake in
4 Support, the Declaration of Leigh Goddard in Support, and accompanying Exhibits B, 3, 6-14
5 contain confidential information on the negotiated billing rates and staffing practices between
6 Salesforce and Counsel for Salesforce that were not made available to the public. Courts routinely
7 keep such information under seal. *See, e.g., Mine O'Mine* 2012 WL 1279827, at *4 (explaining
8 that "hourly billing rates are competitively sensitive and not publicly known" are appropriated
9 filed under seal); *Nike, Inc. v. Fujian Jialaimeng Shoes Co.*, 2020 WL 137382, at *3 (D. Nev. Jan.
10 13, 2020) (granting motion to seal exhibit containing the "work performed by its attorneys"
11 because of the "commercially sensitive nature of its negotiated fee arrangements").

12 This sealing request is narrowly tailored to only sealable material and does not
13 indiscriminately seek to seal other, non-sealable portions of the Motion for Attorney's Fees,
14 Declaration of Sam Stake in Support, Declaration of Leigh Goddard in Support, and
15 accompanying Exhibits B, 3, 6-14.

16 In accordance with paragraph 13 of the Protective Order (Dkt. 46 at 15), Salesforce will
17 file within seven days a redacted version of the Proposed Order.

1
2 DATED: September 27, 2023

Respectfully submitted,

3 QUINN EMANUEL URQUHART &
4 SULLIVAN, LLP

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CERTIFICATE OF SERVICE

I hereby certify, under penalty of perjury, that I am an employee of Quinn Emanuel Urquhart & Sullivan LLP and that pursuant to LR 5-3 I caused to be electronically filed on this date a true and correct copy of the foregoing document with the Clerk of the Court using the CM/ECF system. A copy will be served via email upon the following:

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DATED: September 27, 2023.

/s/ Zachary Furcolo
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